

**LEGISLATURE NEARS END OF  
“REGULAR”SESSION**

The Legislature moved closer to completing its business in the “regular” part of the 2001-02 Session Friday, as both houses sought to work through the remaining majority vote bills on their respective agendas. The state Constitution prohibits the Legislature or Governor from taking action on any majority vote bill after midnight of August 31 (Saturday). Both houses were expecting to meet Saturday.

The budget, however, remains another matter! As of this morning, the Legislature had established a new all-time record for failing to approve a budget bill (the previous record was August 29, 1992). Governor Davis is threatening to call the Legislature back into special session to deal with the budget issue if it fails to send him a bill by Saturday. And Senate Democrats had devised legislation ([AB 1105](#) – [Oropeza](#)) to generate \$3.6 in vehicle license fees without the usually required 2/3 vote of the Legislature, by authorizing the Director of Finance to make a finding that insufficient moneys are available to keep the tax at the reduced rate established in 1999.

**PERSONAL INJURY STATUTE OF  
LIMITATIONS, SUMMARY JUDGMENT &  
CONSTRUCTION DEFECTS**

A pair of significant measures that would extend the statute of limitations for personal injury, wrongful death, and assault and battery actions from one year to two; increase the required notice period for a motion for summary judgment from 28 to 75 days; and overhaul the rights and responsibilities for a homeowner to bring a construction defect action, rolled through the Legislature this week in a last-minute flurry of committee and floor action.

Both measures, [SB 688](#) and [SB 800](#), were gutted and amended last weekend, with Senate President pro Tem John [Burton](#) and Assembly Speaker Herb [Wesson](#) assuming authorship. At press time, both bills had cleared the Assembly

and were awaiting expected final Senate concurrence in Assembly amendments.

[SB 688](#), the statute of limitations/summary judgment measure, is sponsored by the Consumer Attorneys of California, supported by consumer organizations and seniors groups, and opposed by the California Defense Counsel, the insurance industry, and employer organizations. The bill is the successor to [SB 476](#) ([Escutia](#)), a summary judgment measure which stalled in the Assembly earlier this year. All votes on the bill to date have been essentially partisan, with Democrats supporting and Republicans opposing.

In contrast, [SB 800](#), the construction defect bill, is a consensus product resulting from nearly a year of intense negotiations among the interested parties, led by the Consumer Attorneys and the California Building Industry Association. The measure proposes two significant reforms in the area of construction defect litigation: First, it would for the first time establish definitions of construction defects; and second, it requires that claimants alleging a defect give builders notice of the claim, at which point the builder would have an absolute right to repair before the homeowner could sue. All votes on the bill to date have been unanimous.

The two measures are not double-joined, nor is the effectiveness of one contingent upon the signing of the other.

**COURT FACILITIES BILL MAKES RECOVERY**

[SB 1732](#) ([Escutia](#)), the Judicial Council-sponsored bill to establish procedures and funding mechanisms for transferring responsibility for trial court facilities from the counties to the state, has been revived in the waning days of the legislative session and appears headed for the Governor’s desk. At press time, the bill had been approved by the Assembly Appropriations Committee, where it had been stalled for several weeks, and was awaiting approval on the Assembly Floor. Sponsored by the Judicial Council, the bill is the result of the work of the Task Force on Court

Facilities, which recommended in its [final report](#) released October 2001 that the state assume full responsibility for all of the state's court facilities over a three-year period.

As amended last weekend, the bill would increase civil filing fees and surcharges on criminal penalties to help pay for an estimated \$5 billion in necessary courthouse construction, repairs and maintenance. The filing fee increases will terminate in 5 years, giving the Legislature the opportunity to reassess.

#### **'OPEN GOVERNMENT' EFFORT SHIFTS FROM CONSTITUTIONAL AMENDMENT TO BILL**

Seemingly abandoning their 11<sup>th</sup>-hour efforts to qualify a constitutional amendments for the 2004 ballot, sponsors of [SCA 7](#), the so-called "Open Government Sunshine Act" sponsored by the First Amendment Coalition and the California Newspaper Publishers Association, have shifted their focus back to the realm of statute. [AB 822 \(Shelley\)](#) was gutted and amended late last week to create a procedure for persons denied access to public records by a public agency to appeal the denial to the Attorney General, which would issue an opinion as to whether or not the denial was lawful. The bill would also allow a court, in a separate action, to award up to \$100 per day (maximum of \$10,000) when the public agency's action resulted in the denial of plaintiff's right to access the requested records. If signed by the Governor, the bill would take effect on July 1, 2003.

[AB 822](#) is similar to [SB 48 \(Sher\)](#) of 1999, which passed both houses of the Legislature unanimously, but was vetoed by Governor Davis. The current bill contains various safeguards to address the concerns raised by Davis in his veto message.

[SCA 7](#), which now (again) appears dead for the year, would establish in the state Constitution a fundamental right for people to scrutinize what their government is doing and contribute their ideas to the process of policy-making, and

would greatly reduce the circumstances under which governmental agencies could withhold information or governmental bodies could meet in closed session.

#### **OTHER BILL ACTION**

- The Assembly concurred in Senate amendments to [AB 363 \(Steinberg\)](#), the Public Attorney Whistleblower bill, sending the measure to Governor Davis for signature. The final vote on the bill was 51-27.
- [AB 1698](#) (Assembly Judiciary Committee), which would strengthen and repeal the sunset clause in the Legal Document Assistants Act, was approved by the Senate on a 26-9 vote. and the Assembly on a vote of 72-0 . It is on its way to the Governor.
- [AB 1999 \(Correa & Maldonado\)](#), which would authorize the Attorney General, district attorneys, or city attorneys to seek civil penalties not exceeding \$100,000 against immigration consultants, and would expand the types of civil remedies available to include restitution and other equitable relief, has been sent to the Governor. The final vote on the bill was 77-0.
- The on-again, off-again legislative history of [SB 773 \(Speier\)](#), the privacy measure to increase consumer control over the use of their financial information, appears to be off again – probably for the final time. After being revived very late in the session, news stories now report that Assembly leadership has decided not to allow the bill to be brought to a vote. The measure is strongly opposed by various financial institutions. If the bill fails, it will be the sixth time in three years such legislation has failed to be enacted.